

A mere threat to commit waste is a sufficient foundation for an injunction, before any waste has been done.

When the bill is for an injunction to stay further waste, and waste has been already committed, the Court, to prevent a double suit, will decree an account for what is past.

But a bill for an account of waste will not lie when an injunction cannot be asked.

A conveyance, shewn to be fraudulent, declared to be void as against creditors. (c)

The title to land sold under a *fiery facias* passes by the sale; but there must be some written, and recorded evidence of the sale; such as a return to the execution under which the sale was made. (d)

Where lands have been sold under a *fiery facias*, the sheriff should, in his return, sufficiently describe the land sold by him. (e)

This bill was filed, on the 26th of February, 1827, by Charles Duvall, against Nathan Waters, Nathan I. Waters, and Samuel Ratcliff. It alleged, that Samuel Peach had obtained a judgment at law against Nathan Waters upon which he had sued out a *fiery facias*, by which the lands in question were taken and sold, as the property of the defendant Nathan Waters; and this plaintiff became the purchaser; that Nathan Waters had, with intent to defraud his creditors, without any valuable consideration previously conveyed those lands to the defendants Nathan I. Waters and Samuel Ratcliff. Whereupon it was prayed, that the conveyance might be set aside as fraudulent and void, The defendants put their answers to this bill; and commissions were issued and testimony collected. All the material particulars of this case are stated by the Chancellor in delivering his opinion on pronouncing the final decree.

On the 18th of July, 1827, this plaintiff filed another bill here against these same defendants, reciting the nature and pendency of the former bill; and alleging, that, since the institution of that suit, the defendants had been committing great waste, by cutting large quantities of timber, with a view of removing it from the land; and by destroying the wood. Whereupon the plaintiff prayed for an injunction commanding the defendants not to commit further waste by cutting, or removing from the lands any timber; or by destroying the wood; and, not to do any act that might be in any wise prejudicial to the inheritance; and for general relief. Which injunction was granted as prayed. The defendants put in an answer to this bill, in which they averred, that the conveyance was made for a good and valuable consideration; and in short denied the plaintiff's title, and all the material facts upon which his

(c) Cited in *McDowell v. Goldsmith*, 6 Md. 340.

(d) See *Boring v. Lemmon*, 5 H. & J. 223; *Barney v. Patterson*, 6 H. & J. 182; *Clarke v. Belmear*, 1 G. & J. 443.

(e) See *Waters v. Duvall*, 11 G. & J. 37.